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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT TACOMA

12 DEREK V. WILLIAMS,

13 Plaintiff,

14 v.

15 SANTOS LAMAS, *et. al.*,

16 Defendants.

No. 08-5520RJB/JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION

17
18 The Court, having reviewed the Report and Recommendation of Magistrate Judge J.
19 Richard Creatura, and the remaining record, does hereby find and ORDER:

- 20 (1) The Court adopts the Report and Recommendation (Dkt. 20);
21
22 (2) Defendant' Motion to Dismiss Plaintiff's Eighth Amendment claim is **GRANTED**.
23 That claim is **DISMISSED WITH PREJUDICE** from this action for the reasons
24 set forth in the Report and Recommendation (Dkt. 20).
25
26 (3) Plaintiff may **file an amended complaint** regarding his Fourteenth Amendment
and Sixth Amendment claims within **thirty days** of this order being signed.

(4) Failure to file the amended complaint will result in dismissal of this action for
failure to state a claim, failure to prosecute, and failure to comply with a Court
Order.

ORDER ADOPTING REPORT AND RECOMMENDATION- 1

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- (5) The Clerk is directed to send copies of this Order to plaintiff, counsel for defendants, and to the Hon. J. Richard Creatura.

DATED this 9th day of June, 2009.

A handwritten signature in black ink, reading "Robert J. Bryan", written over a horizontal line.

ROBERT J. BRYAN
United States District Judge